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**Commerce & Labor Committee**

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**HB 1059**

**Brief Description:** Increasing the availability of alternative fuels.

**Sponsors:** Representatives Hudgins, Morrell, Simpson, Moeller, B. Sullivan, Goodman, Morris, Dunshee and Chase.

**Brief Summary of Bill**

- Amends the Gasoline Dealer Bill of Rights Act to prohibit motor fuel refiner-suppliers from prohibiting a retailer from offering and selling alternative fuels.
- Amends the Act to prohibit motor fuel refiner-suppliers from discriminating against a retailer that offers and sells alternative fuels.

**Hearing Date:** 2/2/07

**Staff:** Sarah Beznoska (786-7109).

**Background:**

Gasoline Stations

There are different types of retail gasoline stations in Washington and different refiner-retailer relationships. For example, some retail gasoline stations are owned by refiners. These refiners may lease the premises to a retailer who operates under a franchise and supply contract with the refiner. Other retail gasoline stations are independently-owned by a retailer (or leased from a third party independent from the refiner) and operated under a supply contract with a refiner. A third type of retail gasoline station is a station independently-owned by a retailer who purchases motor fuel from wholesalers and not pursuant to any contract with a refiner (non-branded stations).

Gasoline Dealer Bill of Rights Act

In 1986, the Legislature passed the "Gasoline Dealer Bill of Rights Act" (Act). The Act governs certain aspects of the relationship between motor fuel refiners and retailers who resell fuel pursuant to a franchise with a refiner. Under a portion of this law, it is an unfair or deceptive act

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to require a motor fuel retailer to purchase or lease goods or services of the motor fuel refiner or from approved sources of supply unless and to the extent that the motor fuel refiner satisfies the burden of proving that such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on business grounds, and do not substantially affect competition.

The Act also provides that it is unlawful to discriminate between motor fuel retailers unless the refiner proves that any discrimination between retailers is reasonable, is based on motor fuel franchises granted at different times, or on other proper and justifiable distinctions considering the purposes of the chapter, and is not arbitrary.

A right of action is established under the Act, allowing an injured party to sue for damages or for rescission of the contract. The Attorney General may also bring an action in the name of the state against any person for violations of the law.

### Renewable Fuel Standards

In 2006, the Legislature directed certain special fuel licensees to provide evidence to the Department of Licensing that at least two percent of total annual diesel fuel sales are biodiesel fuel sales, whenever the earlier of two events occur: (1) The Director of the Department of Agriculture (DOA) determines that feedstock grown in Washington can satisfy the two percent requirement; or (2) on November 30, 2008. The reporting level rises to five percent biodiesel sales when the Director of DOA determines that both in-state oil seed crushing capacity and feedstock grown in Washington can satisfy three percent of total annual diesel fuel sales.

Beginning December 1, 2008, certain motor vehicle fuel licensees must provide evidence that at least two percent of all gasoline sold in Washington is denatured ethanol.

### **Summary of Bill:**

It is an unfair or deceptive act or practice or an unfair method of competition for any person to prohibit or in any way prevent a motor fuel retailer from offering and selling alternative fuels consistent with all other applicable federal and state law.

It is an unfair or deceptive act or practice or an unfair method of competition for any person to discriminate between motor fuel retailers based on a motor fuel retailer's decision to offer and sell alternative fuels consistent with all other applicable federal and state law.

The fuels to which these provisions apply are:

- Compressed natural gas;
- Liquefied natural gas;
- Liquefied petroleum gas;
- Hydrogen;
- Electricity;
- Methanol, ethanol, and other alcohol fuel;
- Biodiesel;
- Mixtures containing methanol, ethanol, other alcohol fuel, or biodiesel, mixed with diesel, gasoline, or other fuels;
- Fuels other than alcohol fuel that are derived from biological materials; and

- Any other fuel the secretary of the United States Department of Energy determines by regulation to be an alternative fuel until the Legislature acts to add the fuel to the list in this subsection or to clearly reject the fuel from being added to the list.

In addition to other remedies available under the Act, violations are subject to a civil penalty of not less than \$5,000.

"Alcohol fuel" is defined as any alcohol made from a product other than petroleum or natural gas that is used alone or in combination with gasoline or other petroleum products for use as a fuel in self-propelled motor vehicles.

"Biodiesel fuel" is defined as monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet the registration requirements for fuels and fuel additives established by the federal Environmental Protection Agency and standards by the American Society of Testing and Materials.

**Rules Authority:** The bill does not address the rule-making powers of an agency.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.